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Note verbale dated 6 November 2013 from the Permanent Mission of Cyprus to the United Nations addressed to the Committee

The Permanent Mission of Cyprus to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith the report of Cyprus regarding the implementation of Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2013) (see annex).

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Annex to the note verbale dated 6 November 2013 from the Permanent Mission of Cyprus to the United Nations addressed to the Committee

Report of Cyprus regarding the implementation of Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2013)

Cyprus and the other Member States of the European Union have jointly implemented the additional restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution 2094 (2013) by adopting the following common measures:

1. **Council Decision 2013/183/CFSP of 22 April 2013 concerning restrictive measures against the Democratic People's Republic of Korea, and repealing Decision 2010/800/CFSP of 22 December 2010.**

The Council Decision notes the adoption on 7 March 2013 of Security Council resolution 2094 (2013) and provides the basis for European Union-specific implementing measures within the scope of that resolution, notably:

- Designation of additional persons and entities (travel ban and asset freeze) and insertion of additional criteria for designation, in accordance with paragraphs 8 to 10 of Security Council resolution 2087 (2013);
- Prohibition to supply, sell or transfer to the Democratic People's Republic of Korea additional items, materials, equipment, goods and technology that could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea, or to activities prohibited by Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013) or by the European Union Decision, or to the evasion of measures imposed in those resolutions or in the European Union Decision, in accordance with paragraphs 7, 20 and 22 of resolution 2094 (2013);
- Prohibition to provide financial support for trade with the Democratic People's Republic of Korea, including in relation to activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013) or by the European Union Decision or to the evasion of measures imposed by those resolutions or the European Union Decision, in accordance with paragraph 15 of resolution 2094 (2013);
- Obligation to prevent the provision of financial services, including in relation to bulk cash and regarding activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013) or by the European Union Decision or to the evasion of measures imposed by those resolutions or the European Union Decision, in accordance with paragraphs 11 and 14 of resolution 2094 (2013);
- Prohibition on the opening of new branches, subsidiaries or representative offices of the Democratic People's Republic of Korea banks in the territories of the Member States of the European Union, taking an ownership interest in banks under the jurisdiction of Member States, the establishment of

correspondent banking relationships with banks under the jurisdiction of Member States and the maintenance of correspondent banking relationships with banks under the jurisdiction of Member States if Member States have information that provides reasonable grounds to believe that this could contribute to the nuclear or ballistic missile programmes of the Democratic People's Republic of Korea or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013) or by this Decision, or to the evasion of measures imposed by those resolutions or by this Decision, in accordance with paragraph 12 of resolution 2094 (2013);

- Obligation to inspect all cargo to and from the Democratic People's Republic of Korea in the territory of Member States of the European Union, or transiting through their territory, or cargo brokered or facilitated by the Democratic People's Republic of Korea or its nationals, or persons or entities acting on their behalf, including at their airports and seaports, if they have information that provides reasonable grounds to believe that the cargo contains items whose supply, sale, transfer or export is prohibited under resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013) or under this Decision, in accordance with paragraph 16 of resolution 2094 (2013);

- Obligation to deny entry into the ports of Member States of the European Union of any vessel that has refused to allow an inspection after such an inspection has been authorized by the vessel's flag State, or if any Democratic People's Republic of Korea-flagged vessel has refused to be inspected pursuant to paragraph 12 of resolution 1874 (2009), in accordance with paragraph 17 of resolution 2094 (2013);

- Obligation to deny permission to land in, take off from or overfly the territory of Member States of the European Union to any aircraft, if they have information that provides reasonable grounds to believe that the cargo contains items whose supply, sale, transfer or export is prohibited under resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013) or under this Decision, in accordance with paragraph 18 of resolution 2094 (2013);

- Obligation to expel Democratic People's Republic of Korea nationals whom Member States of the European Union determine are working on behalf of, or at the direction of, a person or entity listed in annex I or II, or whom they determine are assisting the evasion of sanctions or violating the provisions of resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013) or of this Decision, from their territories for the purpose of repatriation to the Democratic People's Republic of Korea, consistent with applicable national and international law, in accordance with paragraph 10 of resolution 2094 (2013);

- Obligation to exercise enhanced vigilance over diplomatic personnel of the Democratic People's Republic of Korea so as to prevent such individuals from contributing to the nuclear or ballistic missile programmes of the Democratic People's Republic of Korea, or other activities prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2013) or by this Decision, or to the evasion of measures imposed by those resolutions or by this Decision, in accordance with paragraph 24 of resolution 2094 (2013).

It is noted that certain provisions within the scope of Security Council resolution 2094 (2013) did not require new European Union measures for implementation as the European Union had already taken similar measures on an autonomous basis at an earlier stage, in particular concerning a number of specific elements pertaining to the measures mentioned above.

With a view to ensuring uniform application of these measures by economic operators in all Member States, regulatory action at the level of the European Union has been taken in order to implement the measures of Council Decision 2013/183/CFSP falling under community competence:

2. **The following measure of Council Decision 2013/183/CFSP falling within the scope of Security Council resolution 2094 (2013) is implemented by Commission Implementing Regulation (EU) No. 370/2013 of 22 April 2013 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea:**

– Designation of additional persons and entities, where it concerns the freezing of funds and economic resources.

3. **The following measures of Council Decision 2013/183/CFSP falling within the scope of Security Council resolution 2094 (2013) are implemented by Council Regulation (EU) No. 696/2013 of 22 July 2013 amending Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea:**

– Insertion of additional criteria for designation, where it concerns the freezing of funds and economic resources;

– Prohibition to supply, sell or transfer to the Democratic People's Republic of Korea additional items, materials, equipment, goods and technology that could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea, including related technical assistance and brokering services;

– Obligation to prevent the provision of financial services in relation to prohibited activities;

– Prohibition on the opening of new branches, subsidiaries or representative offices of the Democratic People's Republic of Korea banks in the territories of the Member States of the European Union, taking an ownership interest in banks under the jurisdiction of Member States, the establishment of correspondent banking relationships with banks under the jurisdiction of Member States and the maintenance of correspondent banking relationships with banks under the jurisdiction of Member States if Member States have information that provides reasonable grounds to believe that this could contribute to the nuclear or ballistic missile programmes of the Democratic People's Republic of Korea;

– Obligation to inspect all cargo to and from the Democratic People's Republic of Korea in the territory of Member States of the European Union, or transiting through their territory, or cargo brokered or facilitated by the Democratic People's Republic of Korea or Democratic People's Republic of Korea nationals, or persons or entities acting on their behalf, including at their airports and seaports;

- Obligation to deny entry into the ports of Member States of the European Union of any vessel that has refused to allow an inspection after such an inspection has been authorized by the vessel's flag State or if any Democratic People's Republic of Korea-flagged vessel has refused to be inspected pursuant to paragraph 12 of resolution 1874 (2009);
- Obligation to deny permission to land in, take off from or overfly the territory of Member States of the European Union to any aircraft if they have information that provides reasonable grounds to believe that the cargo contains items whose supply, sale, transfer or export is prohibited under resolutions 1718 (2006), 1874 (2009), 2087 (2013) or 2094 (2013) or under this Decision.

The above-mentioned Council Regulations are binding in their entirety and directly applicable in Cyprus, as well as in all other Member States of the European Union.

The Ministry of Foreign Affairs of Cyprus duly informed all Ministries and competent authorities, as well as the Cyprus Bar Association and the Institute of Certified Public Accountants of Cyprus, of the adoption of Security Council resolution 2094 (2013) and the above-mentioned binding European Union legal acts, requesting them to take all necessary action, where necessary, for their immediate implementation and to notify the Ministry of Foreign Affairs in the case of suspected infringements.

All Ministries and competent authorities issued relevant Circulars informing their personnel and all interested industrial bodies and companies about the existing United Nations/European Union restrictive measures against the Democratic People's Republic of Korea and warning them about the legal consequences in the case of non-compliance.

Certain implementing national measures

Cyprus, for the purposes of compliance with the restrictive measures imposed against the Democratic People's Republic of Korea, has proceeded with the following in the field of maritime transport:

I. National legislation

The Council of Ministers issued, under section 3 of the Cyprus Ships (Prohibition of Transportation) Laws of 1966-1971, the prohibition order P.I. 151/2011, which regulates the prohibitions imposed by the relevant Security Council resolutions and European Union legal instruments on transportation.

Specifically, P.I. 151/2011 implements Security Council resolutions 1718 (2006) and 1874 (2009), as well as Council Decision 2010/800/CFSP and Council Regulation (EC) No. 329/2007 as amended, so as to prohibit the transportation by Cyprus ships of arms and related materiel and luxury goods to and from the Democratic People's Republic of Korea.

Under paragraph 4(2) of P.I. 151/2011, any subsequent implementing or amending European Union legal acts are binding and are to be communicated to the maritime sector and the public by virtue of a Circular.

II. Circulars issued by the Director of the Department of Merchant Shipping

The Director of the Department of Merchant Shipping (DMS) issued the following DMS Circulars:

1. DMS Circular No. 6/2010 deals with bunkering or other servicing of vessels or ship supply services, suspicious cargo inspections, as well as the seizure and disposal of prohibited cargo;

2. DMS Circular No. 18/2011 outlines the provisions of P.I. 151/2011 and deals with cargo information and inspection and bunkering or other services;

3. DMS Circular No. 13/2013 outlines the newly introduced restrictive measures by virtue of:

   (i) Security Council resolutions 2087 (2013) and 2094 (2013);

   (ii) Council Decision 2013/88/CFSP of 18 February 2013 amending Decision 2010/800/CFSP;

   (iii) Council Regulation (EU) No. 296/2013 of 26 March 2013 amending Regulation (EC) No. 329/2007.

4. DMS Circular No. 18/2013 provides an updated and consolidated summary of the restrictive measures imposed by:

   (i) Security Council resolutions 2087 (2013) and 2094 (2013);

   (ii) Council Decision 2013/183/CFSP repealing Decision 2010/800/CFSP;

   (iii) Council Regulation (EC) No. 329/2007 as amended.

   This Circular covers the following aspects:

   (i) Prohibition of transportation of arms and related materiel, luxury goods, gold and precious metals and diamonds, and Democratic People's Republic of Korea denominated banknotes and coinage;

   (ii) Cargo information and inspection, bunkering and other services;

   (iii) Insurance and reinsurance regarding prohibited cargo.

III. Consolidation of measures by virtue of a new prohibition order/ national legislation

For the sake of clarity, a new prohibition order has been drafted in order to consolidate all prohibitions on transportation. The legal vetting of this prohibition order has already been successfully completed by the Law Office of the Attorney General and is expected to be issued by the Council of Ministers in September-October 2013.

This prohibition order seeks to implement the following:

(i) Security Council resolutions 1718 (2006), 1874 (2009) and 2094 (2013);

(ii) Council Decision 2013/183/CFSP and its subsequent amendments;

(iii) Council Regulation (EC) No. 329/2007, as amended by Commission Implementing Regulation (EU) No. 370/2013 and its subsequent amendments.

In cases of importation, exportation or re-exportation of goods, the Department of Customs and Excise examines the documents required in order to determine whether there is a violation of the provisions of the relevant paragraphs of resolution 2094 (2013). Depending on the preliminary findings, the Department proceeds to the physical examination of the goods and if there are grounds of violation, further proceeds with the seizure of goods.

Penalties imposed in case of infringement

Council Regulation (EC) No. 329/2007 requires Member States to determine the penalties applicable to infringements of their provisions and provides sufficient legal basis for action to be taken against any person or entity violating its provisions.

Penalties determined by Cyprus are set out in the Criminal Code (chapter 154).